

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OHIO
EASTERN DIVISION

DIGITAL MEDIA SOLUTIONS, LLC,)	CASE NO. 1:19-cv-145
)	
Plaintiff,)	JUDGE DAN AARON POLSTER
)	
v.)	MAGISTRATE JUDGE
)	THOMAS M. PARKER
SOUTH UNIVERSITY OF OHIO, LLC, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER SURRENDERING LEASED PREMISES TO ITS LANDLORD, HISTORIC BERRIMAN-MORGAN, LLC, RELIEVING INJUNCTION AND STAY AS AGAINST HISTORIC BERRIMAN-MORGAN, LLC AS TO THOSE LEASED PREMISES AND THE LEASE, AND GRANTING RELATED RELIEF

This matter came before the Court during a status conference on March 8, 2019 and the hearing on March 11, 2019, in this case. Among the persons in attendance in-person or telephonically were, among others, Mark E. Dottore, the receiver appointed in this case (the “Receiver”) under that certain *Order Appointing Receiver* dated January 18, 2019 [ECF No. 8, as amended by ECF No. 14) (the “Receiver Order”), and Historic Berriman-Morgan, LLC (“HBM”). The Court has been informed as follows:

HBM, as landlord, and Argosy Education Group, LLC (“AEG”), as tenant, are parties to that certain *Office Building Lease* dated as of November 5, 2008 (as assigned to AEG pursuant to an *Assignment and Assumption of Lease* dated October 17, 2017) (the “Lease”). A true and correct copy of the Lease was attached as Exhibit A to the *Motion to Intervene of Historic Berriman-Morgan, LLC* [ECF No. 43] (the “Intervention Motion”), which the Court granted.

Under the Lease, AEG leased a 32,000 square foot building located at 1403 North Howard Avenue, Tampa, Florida (as more fully described in the Lease, the “Leased Premises”),

at which university classes were being offered by AEG. AEG is subject to this receivership under the Receiver Order.

On March 7, 2019, the President of AEG's Tampa campus announced that the university campus at the Leased Premises would close at 5:00 p.m. (EST) on March 8, 2019, and that from and after March 8, 2019, no students, faculty, or other personnel will be present at the Leased Premises.

The Court has also been informed that (in light of the imminent closing of the university campus at the Leased Premises) the Receiver (on behalf of AEG) and HBM have agreed to the relief set forth below, so that HBM may better protect its rights and interests. Accordingly, it is hereby

ORDERED that:

- (1) Effective at 5:00 p.m. (EST) on March 11, 2019,
 - (a) Possession of the Leased Premises shall be deemed surrendered voluntarily by AEG, as tenant under the Lease, to HBM, as landlord. The Receiver or the Receiver's designees, including the President of AEG's Tampa campus, shall deliver one or more keys to the Leased Premises to HBM.
 - (b) Tenant is not waiving any rights and remedies with respect to the Lease and the Leased Premises provided under the Lease and any applicable law and all injunctive provisions and stays contained in the Receiver Order (including, without limitation, paragraphs 9, 10, 14, and, to the extent applicable, 20), including as it has been or hereafter may be amended, hereby are relieved and terminated as against HBM with respect to the Lease and the Leased Premises, such that HBM may exercise and enforce any and all rights and remedies relating to the Lease and the Leased Premises as are provided or permitted under the Lease and applicable law, all the same as if the Receiver Order had never been entered;
- (2) HBM shall reasonably cooperate with the Receiver (on behalf of AEG), or with the Receiver's designees, regarding the orderly disposition of any removable personal property in accordance with applicable state law or any student records that remain at the Leased Premises after the voluntary surrender in paragraph (1)(a) of this Order becomes effective;

- (3) This Court retains jurisdiction to enforce the terms and provisions of this Order; and
- (4) HBM hereby withdraws its request for expedited relief from stay, as set forth in the *Motion of Historic Berriman-Morgan, LLC For Expedited Relief From Stay and For Payment of Post-Receivership Rent* [ECF No. 86].

Dated: March __, 2019

THE HONORABLE THOMAS M. PARKER
UNITED STATES MAGISTRATE JUDGE

Submitted by:

/s/ Daniel J. Bennett

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